

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
FILED

2008 FEB 11 AM 10:54

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIABY *OP* DEPUTY

Robert A. Mautino

Mautino &amp; Mautino

California State Bar No. 54071

1059 10<sup>th</sup> Avenue

San Diego, CA 92101

Telephone: (619) 235-9177

E-mail: bob@mautino.org

Attorney for Plaintiff

## UNITED STATES DISTRICT COURT

## SOUTHERN DISTRICT OF CALIFORNIA

Guillermo Alejandro Rodriguez, ) No. '08 CV 0255 LAB AJB

Plaintiff )  
-vs- ) COMPLAINT FOR REVIEW OF  
Michael Chertoff, Secretary, Emilio ) NATURALIZATION APPLICA-  
Gonzalez, Director, Paul Pierre, District ) TION; 8 U.S.C. 1447(b)Director, Department of Homeland ) CIS Nos. A041-697-783  
Security, and Michael Mukasey, ) WSC\*001031051  
Attorney General )  
Defendants )

Plaintiff, by his attorney, complaining of Defendants alleges as follows:

1. Plaintiff is a lawful permanent resident who resides within the jurisdiction of this Court. Plaintiff's claim to relief arises under 8 U.S.C. 1421 et seq.

2. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (DHS). Emilio Gonzalez is the Director of the bureau of Citizenship and Immigration Services (CIS) of the DHS, Paul Pierre is the District Director of the San Diego District of the CIS, and Michael Mukasey is the Attorney General of the United States. All Defendants are sued herein in their official capacities. Plaintiff alleges, on information and belief, that Defendants are in charge of the processing

1 and adjudication of applications for naturalization under 8 U.S.C. 1421, et seq.

2       3. The Court has jurisdiction of this action pursuant to 8 U.S.C. 1447(b) and  
3       5 U.S.C. 701 et seq., and relief is requested pursuant to said statutes.

4       4. On or about October 3, 2003, the Plaintiff filed an application for  
5       naturalization with the Defendants. He was examined on his application by  
6       Defendants agent Daisy Lintz on August 27, 2004. At that time, agent Lintz  
7       informed him that he had passed the examinations in English and United States  
8       history and government. Ms. Lintz requested further information from the Plaintiff,  
9       and he provided same within the time allotted.

10      5. The Plaintiff has not received any decision on his application.

11      6. The failure of Defendants to make a decision on the Plaintiff's application for  
12       naturalization within 120 days of the date of his examination allows the Plaintiff to  
13       seek the assistance of this Court under 8 U.S.C. 1447(b).

14      WHEREFORE, Plaintiff prays:

15       That the Court will take jurisdiction of his application for naturalization,

16       That the Court will render a decision on his application and

17       That the Court will award such other and further relief as to this Court may  
18       seem reasonable and proper.

19      Dated: 02/11/2008



20      Robert A. Mautino  
21      Mautino & Mautino  
22      Attorney for Plaintiff

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Guillermo Alejandro Rodriguez

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

FILED

Michael Chertoff, et al.

2808568-11-AM-10155

Defendant

(IN U.S. PLAINTIFF CASES ONLY)

CLERK NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE SOUTHERN DISTRICT AND IN VOL. B.R.N.A.

(c) Attorney's (First Name, Address, and Telephone Number)

Mautino and Mautino (619) 235-9177  
1059 10th Ave., San Diego, CA 92101

Attorneys (If Known)

08 DEPUTY

08 CV 0255 LAB AJB

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 1	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 850 Securities/Commodities Exchange	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 880 Other Statutory Actions	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 410 Voting	<input type="checkbox"/> 885 Securities/Commodities Exchange	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 861 HIA (1995)	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 410 Antitrust
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<b>Habeas Corpus:</b>	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 810 Selective Service
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 850 Securities/Commodities Exchange

## V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

8 U.S.C. 1447(b)

Brief description of cause:

Action for Review of Naturalization Application

## VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

R. Mautino

02/11/2008

FOR OFFICE USE ONLY

RECEIPT #

147454

AMOUNT

\$350

APPLYING IFP

JUDGE

MAG. JUDGE

2/11/08 \$4

UNITED STATES  
DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

# 147454 - BH

February 11, 2008  
09:54:11

Civ Fil Non-Pris  
USAO #: 08CV0255 CIVIL FILING  
Judge.: LARRY A BURNS  
Amount.: \$350.00 CK  
Check#: BC# 10683

Total-> \$350.00

FROM: RODRIGUEZ V. CHERTOFF ET AL  
CIVIL FILING